

Exhibit D

Glaser, David

From: Glaser, David
Sent: Thursday, March 28, 2024 12:30 PM
To: Johnson, Thomas S (DHS)
Cc: 'Ken.Roberts@nuway.org'; Novak, Amanda E (DHS); Jahnke, Cynthia B (DHS); Oberg, Corrie A (DHS); Sertich, Manda
Subject: RE: Amended DHS notices of agency action

Good afternoon. I just wanted to follow up on my email below. In particular, I want to renew my offer to meet with you to discuss our analysis of the situation and explore any actions that NUWAY could take that would alleviate your concerns. I also want to be certain that you know that we are NOT currently notifying patients and staff about the possible May 15th payment suspension. As I mentioned below, the mere act of providing that notice would cause much of the disruption that we are seeking to avoid, and given the confidence we have in our legal position, we remain optimistic that there will not ultimately be a payment suspension.

If you would like to set up a time to talk, please let me know.

David

David Glaser
direct 612-492-7143

From: Glaser, David
Sent: Monday, March 18, 2024 2:15 PM
To: Johnson, Thomas S (DHS) <thomas.s.johnson@state.mn.us>; Ryan Hamilton <Ryan.Hamilton@nuway.org>
Cc: 'Ken.Roberts@nuway.org' <Ken.Roberts@nuway.org>; Novak, Amanda E (DHS) <amanda.novak@state.mn.us>; Jahnke, Cynthia B (DHS) <cynthia.jahnke@state.mn.us>; Oberg, Corrie A (DHS) <corrie.oberg@state.mn.us>
Subject: RE: Amended DHS notices of agency action

Good afternoon. I haven't seen the letter yet, so it is possible that it will offer some additional information, but I wanted to ask a couple of questions, offer a couple of quick thoughts, and see if you thought a meeting would be helpful for all involved.

First, I want to thank you again for the delay in the suspension. I am grateful both on behalf of NUWAY and also just as a person. I think it is a good result for clients, the organization and the state. Thanks.

Second, I am trying to figure out the best path forward. As I mentioned near the end of my long letter last week, I fear that giving notice to patients and staff about the payment suspension will have a number of irreversible consequences. Therefore, our plan is to give you some time to sort through our response before we embark on that path. I will admit that I am hopeful that notice will not be necessary, and we will find a path forward that doesn't involve a payment suspension. I don't have a specific date in mind, but I wouldn't envision doing anything with regard to notice for at least another month. I want to be fully transparent about that plan. If you have any concerns about it, please let me know.

In a similar attempt to be transparent, we are prepared to share any factual information you need for your investigation. We have given a lot of information to the federal government and we can share that with you. I made a presentation to the federal government about our thoughts, and I would be happy to walk you through it. While I can send you the slide deck, I think it would make far more sense for us to walk through it jointly. While I would be out of town the balance of this week, anytime from March 25 on I could meet to talk.

Finally, at the risk of duplicating my prior correspondence, think that there is a solution to address the concern that federal law limits DHS's ability to share information. First, I believe that the federal law intends to distinguish between the substance of the investigation and the process. I think that the law requires the state to share enough information to allow a party to have a meaningful right to submit information, which means the details of the allegation must be shared. But perhaps more importantly, the regulation is permissive. The state is always free to share information. I don't see a basis in federal law for the federal government to complain if the state shares information. The regulations say that the state "need not" disclose information about the investigation, but it doesn't impose any prescriptions on the state. The state has carte blanche to share information. About the investigation. But frankly, I am not worried about getting any information about the investigation. I don't care who filed a complaint or why, or who the state has talked to. Engaging about the facts is all that matters to us. And I think that a factual discussion could help bring a swift end to this situation. I am absolutely certain we can allay any concerns that are prompting a belief that a payment suspension is necessary.

My absence this week is merely to attend the American Health Lawyers Medicare/caid conference, so I will be available, just not in town. I look forward to hearing from you.

David

David Glaser
direct 612-492-7143

From: Johnson, Thomas S (DHS) <thomas.s.johnson@state.mn.us>
Sent: Friday, March 15, 2024 4:43 PM
To: Ryan Hamilton <Ryan.Hamilton@nuway.org>
Cc: Glaser, David <dglaser@fredlaw.com>; 'Ken.Roberts@nuway.org' <Ken.Roberts@nuway.org>; Novak, Amanda E (DHS) <amanda.novak@state.mn.us>; Jahnke, Cynthia B (DHS) <cynthia.jahnke@state.mn.us>; Oberg, Corrie A (DHS) <corrie.oberg@state.mn.us>
Subject: Amended DHS notices of agency action

CAUTION: EXTERNAL E-MAIL

Good afternoon.

I'm reaching out to let you know that DHS placed in today's mail amended notices of agency action regarding the payment withholds discussed in our email exchange yesterday. The purpose of the amended notices is to extend the effective date to May 15th, giving DHS time to complete its review of Nuway's March 11 submission and, if DHS determines that the payment withholds must remain in place, additional time for Nuway to provide notice to clients and facilitate their transition to new providers. The additional time is also intended to allow clients to seek housing subsidies, if necessary, through local social services programs.

Please let me know of any other questions.

Tom Johnson
Deputy Inspector General | Program Integrity Oversight Division
Minnesota Department of Human Services

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